

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail
Priority Mail Contract 419

Docket No. MC2018-117

Competitive Product Prices
Priority Mail Contract 419 (MC2018-117)
Negotiated Service Agreement

Docket No. CP2018-159

PUBLIC REPRESENTATIVE NOTICE OF ERRATA
TO PUBLIC REPRESENTATIVE COMMENTS
ON USPS REQUEST TO ADD PRIORITY MAIL CONTRACT 419
TO COMPETITIVE PRODUCT LIST
(January 10, 2018)

The Public Representative hereby provides Notice of Errata to the Public Representative Comments filed January 9, 2017, in this docket. The sentence “In addition, the prices negotiated in the Contract should generate sufficient revenue to cover costs and therefore satisfy 39 U.S.C. § 3633” shall be replaced with “However, the Public Representative finds that the Postal Service has not provided convincing evidence that the Contract will generate sufficient revenue to cover costs in compliance with 39 U.S.C. § 3633 for the reasons discussed below.”

Revised comments are appended to this notice.

Respectfully submitted,

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I. INTRODUCTION

The Public Representative hereby provides comments pursuant to the Commission Notice initiating this docket.¹ In that Notice, the Commission established the above-referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's Request to add Priority Mail Contract 419 (Contract) to the competitive product list.² The Request included a redacted copy of the Contract, a Statement of Supporting Justification (Statement of Supporting Justification), a Certification of Compliance with 39 U.S.C. § 3633(a) (Certification of Compliance), and a redacted copy of Governors' Decision No. 11-6 as attachments and a redacted supporting financial model filed separately as an Excel file. Additionally, the Postal Service filed unredacted versions of redacted documents separately under seal.

Under 39 U.S.C. § 3642(b), the criteria governing the Commission's determination to add a product to the competitive product list are (1) whether the

¹ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, December 29, 2017 (Notice).

² USPS Request to Add Priority Mail Contract 419 to Competitive Product List and Notice of Filing Materials under Seal, December 28, 2017 (Request).

product qualifies as market dominant; (2) whether the product is covered by the postal monopoly and therefore excluded from classification as a competitive product; and (3) whether certain additional considerations, including private sector competition, the impact on small businesses, and the views of product users, warrant classification other than that supported by criteria (1) and (2).

Pursuant to 39 U.S.C. § 3633(a), the criteria for the Commission's review require that the Postal Service's competitive prices not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and ensure that all competitive products collectively cover an appropriate share of the institutional costs of the Postal Service.

The Contract offers the Customer prices for certain Contract Packages consisting of Priority Mail Open and Distribute sacks and Palletized Priority Mail Open and Distribute containers. Contract at 1. The effective date of the Contract is two business days following the day on which the Commission issues all necessary regulatory approval. *Id.* at 4. The Contract will expire three years from the effective date unless terminated earlier by either party according to the terms of the Contract. *Id.*

II. COMMENTS

After reviewing the Postal Service's Request, Statement of Supporting Justification, Certification of Compliance, and the unredacted Contract and supporting financial models filed under seal, the Public Representative agrees that Priority Mail Contract 419 satisfies the requirements for inclusion on the competitive products list. However, the Public Representative finds that the Postal Service has not provided convincing evidence that the Contract will generate sufficient revenue to cover costs in compliance with 39 U.S.C. § 3633 for the reasons discussed below.

Compliance with 39 U.S.C. § 3642(b): The Postal Service makes a number of assertions that address the requirements of 39 U.S.C. § 3642(b). The Postal Service asserts that its bargaining power in negotiating this Contract is constrained by the existence of other similar services offered by competitors. Statement of Supporting Justification at 2. The Postal Service also states that Priority Mail is not covered by the postal monopoly. *Id.* As these assertions seem reasonable, the Public Representative

concludes that the Priority Mail Contract 419 satisfies the criteria set forth in 39 U.S.C. § 3642(b) and therefore warrants classification as a competitive product.

Compliance with 39 U.S.C. § 3633(a): Based upon a review of the financial models and the Contract filed under seal with the Request, the Public Representative has some concerns about the Postal Service's development of the cost of the Contract. First, the values used in Excel file "PM_PalletOD_public.xlsx", worksheet "MailProcessingInputs", cell range E4:E6 are overhead (productivity adjustment) factors, not piggyback factors. The mail processing cost model developed in Docket No. RM2017-10 uses a different set of values from those used in the above-referenced cell range.³ Second, the Palletized Priority Mail Open and Distribute transportation costs are highly sensitive to the "Average utilized positions per truck" parameter set in Excel file "PM_PalletOD_public.xlsx", worksheet "Partner Unit Costs", cell C15. The Public Representative observes both that the Postal Service does not provide any evidence in support of the value it assumes for this cell and that the cost coverage of the Contract depends critically on the value that is assumed.

Finally, while the models presented by the Postal Service indicate that the negotiated prices set forth in the Contract should generate sufficient revenues to cover costs during the first year of the Contract, the Contract is expected to remain in effect for a period of three years. The Postal Service has provided no evidence to demonstrate that the Contract will comply with the requirements of 39 U.S.C. § 3633(a) during the second and third years of the Contract. However, this concern is partially mitigated by terms in the contract that link prices paid under the Contract to the prevailing Priority Mail prices of general applicability. These terms should facilitate continued cost coverage through the second and third years of the Contract. In addition, the Commission has an opportunity to conduct an annual compliance review in its Annual Compliance Determination.

Due to the aforementioned issues, the Public Representative cannot affirm that the Contract will comply with the requirements of 39 U.S.C. § 3633(a).

³ See Docket No. RM2017-10, Library Reference USPS-RM2017-10/NP3, Excel file "Prop.6.CHIR2.NP15.xlsx." The adjustment factor used in the instant proceeding is the overhead factor appears to have been taken from worksheet "Cost Pool Data", cell L28. The piggyback factor that was used to develop the equivalent mail processing costs in RM2017-10 is found in worksheet "Cost Pool Data", cell M28.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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